



8 November 2016

Syllabus – European Economic Law

Fall Semester 2016

Course Leaders: Prof Kern Alexander/Prof Peter Georg Picht

Course Content

The course gives an overview of the principles of European Economic Law. The economic constitution of the European Union and the foundations of the Internal Market are dealt with. The general perspective will be complemented by an analysis of the most important cases of the European Court of Justice. The focus will be on the free movement of goods, services, persons and capital as well as on EU competition law.

Learning Targets

The goal of the course is to understand the economic problems of regional integration based on the example of the European Union.

Course Structure

The course will consist of lecture sessions including exam review sessions held in the second half of the last lectures. The format of teaching will be lectures and interactive discussion with the students based on the readings and relevant documentation distributed beforehand. Several case studies will be discussed. Students should come to lecture well-prepared and ready to participate. The final lectures will include examination review sessions that will cover relevant course themes and topics. The examination will be written. Students will be encouraged to discuss course themes in preparation for the examination.

Assessment

Written examination (open book exam).

Lectures

The lectures will be held on **Wednesday 10:15-12:00**, starting **21 September 2016** until **21 December 2016** in room **RAI-J-031**.

Reading materials

The course will use selected readings to supplement each lecture. Students are required to refer to the following textbook for preparing the sessions and the exam:



- D Chalmers, G Davies & G Monti, *'European Union Law-text and Materials'* (Cambridge University Press 2014) 3rd edition
- P Craig, G de Búrca, *'EU Law: Text, Cases and Materials'*, (Oxford University Press 2015) 6th edition

Reading materials will be uploaded on the chair websites along with the slides of each lecture. Selected case law materials relating to each topic will be also provided during the course.

1st lecture (14 September 2016) – Introduction

Themes: Roadmap of the course – What are the key areas that will be covered in the course?

2nd lecture (28 September 2016) – European Union: Creation and Treaty on European Union (KA)

Themes: This session provides an understanding of the historical and political context leading up to the creation of the EU. In doing so, the main Treaties on European Union, in particular the Lisbon Treaty, will be reviewed. Furthermore, in the last part of the session there will be an analysis of the current issues which can pose a threat to the EU integration process (Euro zone crisis, Euro-skepticism, Brexit, immigration etc.)

Readings: CHALMERS et al., chapter 1, *'European Integration and the Treaty on European Union'*, pp. 1-53.

3rd lecture (05 October 2016) – The EU Institutions

Themes: This session deals with the institutional framework governing the European Union. The role and prerogatives of the European Commission, the Council of Ministers, the European Council, the European Parliament and the Court of Auditors will be discussed. Students will understand how EU Institutions promote the policies of the Union and the citizens' interests. In this context, the interaction between the EU institutions and national governments will be analysed in relation to the following questions: to what extent has the recent financial crisis changed the relationship between national governments and EU Institutions? Do the EU Institutions have more powers? Are the EU Institutions subject to any judicial or democratic control?

Readings: CHALMERS et al., chapter 2, *'The EU Institutions'*, pp. 57-103.



4th lecture (12 October 2016) – Union Law-making Process (KA)

Themes: This session illustrates the different forms of law and regulatory acts in EU law. Particular attention will be devoted to the regulatory procedures through which such acts are enacted and to the types of legal instruments in EU law: 1) binding legislative instruments: Regulations, Directives, Decisions and international agreements; 2) soft law non-binding instruments: code of conducts. Moreover, students will understand the degree of involvement of national parliaments within the EU law-making process, the role of committees of national government representatives and their relationship with the European Commission (comitology).

Readings: CHALMERS et al., chapter 3, *'Union-Law-making'*, pp. 106-155.

5th lecture (19 October 2016) –The EU Judicial Order and the Role of the Court of Justice (KA)

Themes: This session discusses the powers and competences of the Court of Justice of the European Union (CJEU) and its institutional relations with national courts and tribunals. In practice, under the umbrella of the CJEU three courts will be identified and analysed separately: the Court of Justice, the General Court and the European Union Civil Service Tribunal. Then, the main focus will be on the Court of Justice, in particular, on its jurisdictional powers and on the preliminary reference procedure.

Readings: CHALMERS et al., chapter 4, *'THE EU JUDICIAL ORDER'*, pp. 156-197.

6th lecture (26 October 2016) – The Free Movement of Goods (KA)

Themes: This session will first introduce the purpose and legal framework of the EU internal market. In this context, it will deal with the free movement of goods across the EU space. It will start by construing the scope and aims of Article 34 TFEU which prohibits restrictions on the import of goods from other Member States. This session then develops through the analysis of three landmark cases: *Dassonville*, *Cassis de Dijon* and *Keck*.

Readings: CHALMERS et al., chapter 15, *'The Internal Market'*, pp. 667-702.
CHALMERS et al., chapter 17, *'The Free Movement of Goods'*, pp. 754-796.



7th lecture (02 November 2016) – Right of Establishment in Another Member State: Free movement of workers (KA)

Themes: This session studies the right to pursue an occupation in another Member State. In doing so, it will analyse how the Court of Justice interprets Article 45 and 49 of the TFEU which regulate the right to work in other Member States and the right to self-employment in other Member States. National measures restricting access to an occupation or refusing to recognize foreign qualifications will be discussed through the lens of landmark cases. The last part of the session will deal with the free movement and right of establishment of companies.

Readings: CHALMERS et al., *'The Pursuit of an Occupation in Another Member'*, pp. 848-891.

8th lecture (09 November 2016) – Introduction and Restrictive Agreements (Article 101 TFEU) (PP)

Themes: This session will give a general introduction on the different theoretical models underlying competition law, such as classical liberalism, workable competition or the Chicago school, and provide for an overview about the relevant historical developments from a global perspective. Hereinafter, the different elements of restrictive agreements according to Article 101 TFEU will be analyzed by reference to ECJ case law.

Readings: CHALMERS et al., chapter 21, *'EU Competition Law: Function and Enforcement'*, pp. 942-956.

CHALMERS et al., chapter 22, *'Antitrust and Monopolies'*, pp. 997-1030.

9th lecture (16 November 2016) – Abuse of a Dominant Position (Article 102 TFEU) (PP)

Themes: This session will focus on abusive practices of market dominant undertakings, forming the second branch of EU competition law. Besides the general elements of Article 102 TFEU, such as the parties involved as well as the concept of dominance, the lecture will particularly take into account the different forms of abuse covered by the norm.

Readings: CHALMERS et al., chapter 22, *'Antitrust and Monopolies'*, pp. 1031-1051.

10th lecture (23 November 2016) – Merger Control (PP)

Themes: This session will provide for an overview about the substantive criteria for the assessment of different forms of mergers and consider the different stages of the procedure to be followed by the respective undertakings under EU competition law.



Furthermore, students will learn to delimitate between the different set of rules applicable to mergers on the European and on the national level.

Readings: CRAIG, DE BÚRCA, chapter 28, '*Competition Law: Mergers*', pp. 1090-1115.

11th lecture (30 November 2016) – Public Undertakings / State Subsidies (PP)

Readings: This session will consider, on the one hand, the specific role of public undertakings within the general framework of EU competition law. On the other hand, the different requirements concerning the admissibility of state aid in accordance with Article 107 et seq. TFEU will be analyzed in more detail.

Optional: CHALMERS et al., chapter 23, '*State Aid Law*', pp. 1052-1085.

12th lecture (07 December 2016) – Essential Facilities Doctrine (PP)

Themes: This session will elaborate on the specific aspects related to the so-called “essential facilities doctrine”. After giving an overview about the historical genesis of the concept in US American antitrust law as well as European competition law, leading cases of the ECJ, influencing the legal standards of the doctrine, such as Magill, IMS Health or Microsoft will be examined and be embedded in the broader context.

Readings: CRAIG, DE BÚRCA, chapter 27, '*Competition Law: Article 102*', pp. 1072-1077.

13th lecture (14 December 2016) – The Free Movement of Services / Exam review (KA)

Themes: This session closes the analysis of the EU internal market by discussing the free movement of services across the EU. Student will learn about the cross-border reach of services and which restrictions on services can be justified. Gebhard, Alpine Investments and Mobistars cases will be discussed to this end. Finally, the second part of the session will provide information on exam preparation.

Readings: CHALMERS et al., '*The free Movement of Services*', pp. 798-846.

14th lecture (21 December 2016) – Competition Law vs. Intellectual Property Law / Exam review (PP)

Themes: The focus of the last lecture will be twofold. On the one hand, it will be shed light on the relation between the separated but interconnected fields of competition law and intellectual property law, taking into account not only theoretical foundations, but also latest case law. On the other hand, Prof. Picht will give an overview about the previous lectures and elaborate on particular issues of interest for the final exam.

Readings: Course materials of the previous lectures on EU competition law.



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